



BY THE COURT:

/s/ John M. Gallagher

JOHN M. GALLAGHER

United States District Court Judge

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Plaintiffs have not shown that they will suffer immediate, irreparable injury. Their theory of injury hinges primarily on the representation that the counties encompassed by the school district, Montgomery and Berks, have a “high” rate of COVID-19 transmission. Pls.’ Mot. 16. Even assuming for sake of argument that transmission rate is the proper measurement of immediate injury here, the ground has shifted underneath Plaintiffs’ position in the short time since their filing of this motion. On February 25, 2022, the Center for Disease Control and Prevention (“CDC”) updated its guidance and dropped its previous recommendation for universal masking within schools. *See* “Use and Care of Masks,” CDC Guidance, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html> (last updated Feb. 25, 2022). And, as relevant here, the CDC no longer calls for mandatory masking in communities that face “low” or “moderate” risks of COVID-19 transmission. *Id.* According to new CDC data, Berks County is now considered to be at a “low” risk level for COVID-19 transmission, while Montgomery County is at a “moderate” risk level. *See* “COVID-19 by County,” CDC, <https://www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html> (last updated Feb. 25, 2022). Also notable to our inquiry, there have only been twelve reported cases of COVID-19 across the district since implementation of the new policy. Defs.’ Ltr. Br. 14–15, ECF No. 12. In sum, Plaintiffs have not established the requisite injury to support the extraordinary relief sought here.

It also bears repeating that the district’s mask-optional policy *has already been* in effect for two full school weeks. Plaintiffs’ delay in seeking injunctive relief for an allegedly irreparable injury further belies their argument that the Court must take immediate action in this instance. *See, e.g., Lanin v. Borough of Tenaflly*, 515 F. App’x 114, 118 (3d Cir. 2013).

The recent factual developments—plus Plaintiffs’ delay in bringing this motion two full school weeks *after* the district implemented its new mask policy—undercut Plaintiffs’ claims that they will suffer immediate and irreparable harm. For these reasons, Plaintiffs’ Motion is denied.

The Court shall confer with the parties regarding scheduling of a hearing on Plaintiffs’ request for a preliminary injunction and other relief.